WP(C) 4767/2006

BEFORE

THE HON'BLE MR. JUSTICE B.K.SHARMA

Heard Mr. R.P. Sarmah as well as Mr. A.C. Borbora, learned Sr. counsel assisted by their respective juniors namely, Mr. A.D. Choudhury and Mr. M.G. Singh, learned counsel for the petitioners. I have also heard Mr. D. Das, learned Sr. Standing Counsel, Bodoland Territorial Council (BTC) along with Ms. M. Bordoloi, learned Standing Counsel, BTC. Mr. M.K. Misra, learned Standing Counsel represents the Education Department, Government of Assam.

This batch of writ petitions pertaining to termination of services of the petitioners as Assistant Teachers and Grade-IV employees in M.E. and L.P. Schools, has been filed praying for setting aside and quashing of the impugned orders of termination and payment of salary. It is the case of the petitioners that their services could not have been terminated by identical orders of termination, which according to them, depict total non-application of mind.

It is the further case of the petitioners that while some of the petitioners have been paid their salary, but some have not been paid. Upon a reference to the communication made by the authorities of the B.T.C., the petitioners assert that the respondents cannot make any distinction relating to payment of salary in respect of the cases, in which the stay orders are operating and in respect of cases where there is no stay order. It is the case of the petitioners that irrespective of stay orders passed, all the petitioners have been continuing in their respective services.

Mr. Das, learned Standing counsel, B.T.C., on the other hand, submits that the petitioners having been appointed irregularly, their services were rightly terminated. However, he fairly submits that it would have been prudent, had the petitioners been served with show cause notices asking them to show cause as to why their services would not be terminated. As regards the payment of salary, Mr. Das, learned Standing Counsel, B.T.C. submits that the B.T.C. authority has written to the Government of Assam for providing budgetary allocation for payment of salary to the petitioners, who have not been paid their salary in absence of the same.

In view of the above submission and as agreed to by the learned counsel for the parties, this batch of writ petitions is disposed of with the following directions:-

(1) The impugned orders pertaining to termination of services of the petitioners shall stand set aside and quashed. However, it is made clear that no opinion is expressed regarding the merits of the rights and contents of either of the parties. The impugned orders have been set aside and quashed on the technical grounds of non-issuance of notices and/or violation of the principles of natural justice.

(2) It will be open for the B.T.C. authority to deal with the matters in accordance with law. However, no adverse orders shall be passed against the petitioners without providing opportunity of being heard.

(3) The petitioners, who have not been paid their salary for the period of services they have rendered; shall be paid their salary seeking budgetary allocation of which, the B.T.C. authority has already written to the Government. Necessary budget sanction shall be provided by the Government to the B.T.C. towards payment of admissible salary to the petitioners, who have not been paid their salary. It is made clear that such payment of salary to the petitioners will not be dependant on the interim order passed by this Court, meaning thereby, that irrespective of interim order passed, the petitioners shall be paid their salary. This is in tune with the interim order passed on 15.12.2006 in W.P. (C) No.6064/2006.

With the above directions, the writ petitions are disposed of.